

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
DOCKET NO. 5:09CR27-RLV**

UNITED STATES OF AMERICA)
)
v.)
)
BERNARD VON NOTHAUS)
_____)

In re: PETITION OF ELTON HARRIS

**ORDER GRANTING IN PART AND DISMISSING IN PART
PETITION OF ELTON HARRIS**

WHEREAS, on November 10, 2014, the Court entered a Memorandum and Order (Doc. 270) affirming the jury's verdicts of guilty to Counts One, Two, and Three in the Superseding Bill of Indictment.

WHEREAS, on February 25, 2015, the Court entered the Amended (Third) Preliminary Order of Forfeiture (Doc. 297) forfeiting certain coins, metals, and other property to the United States.

WHEREAS, Petitioner Elton Harris filed a Petition (Doc. 441) claiming ownership of ten (10) copper Ron Paul Dollars, one (1) 1998/1999 "Type II" Silver one ounce Liberty Dollar, ten (10) one ounce copper Peace Dollars, one (1) ½ ounce silver Peace Dollar, one (1) first day issue ½ ounce silver Peace Dollar, two (2) ¼ ounce silver Liberty Dollars, and one (1) 1/20 ounce gold Liberty Dollar.

WHEREAS, Petitioner's claims for ten (10) copper Ron Paul Dollars and one (1) 1998/1999 "Type II" Silver one ounce Liberty Dollar are based on documentation and/or a plausible factual explanation that comports with the information known to the United States and Court and that satisfies 21 U.S.C. § 853(n)(6), and the United States herein moves that the

aforementioned portion be granted.

WHEREAS, Petitioner also claims ten (10) one ounce copper Peace Dollars, one (1) ½ ounce silver Peace Dollar, one (1) first day issue ½ ounce silver Peace Dollar, two (2) ¼ ounce silver Liberty Dollars, and one (1) 1/20 ounce gold Liberty Dollar, purchased in October of 2007 that the United States contends in its Motion were previously forfeited to the United States as contraband *per se*.

WHEREAS, based on the evidence, the Court has ruled in this case that coins minted after the warning by the United States Mint to the Liberty dollar organization and the Defendant on September 14, 2006 were counterfeit. *See* Memorandum and Order, at 7 (Doc. 270; Memorandum and Order (First Preliminary Order of Forfeiture) at 18 (Doc. 285).

WHEREAS, the Court has ruled in this case that “Items that are considered ‘contraband’ or ‘counterfeit’ under Section 492 are deemed illegal *per se* and automatically forfeited without having to satisfy the otherwise applicable forfeiture procedures.” Memorandum and Order (First Preliminary Order of Forfeiture) at 11 n. 10 (Doc. 285) (citing *Helton v. Hunt*, 330 F.3d 242, 247–48 (4th Cir. 2003)). The Court has further defined contraband in this case as “properties that no person or entity other than the United States may have a property right or interest in them.” Consent Order and Judgment of Forfeiture, Doc. 296.

IT IS THEREFORE ORDERED:

1. The Petition of Elton Harris is granted in part, with said portion to be granted consisting of ten (10) copper Ron Paul Dollars and one (1) 1998/1999 “Type II” Silver one ounce Liberty Dollar. This portion is granted based on information known to the United States and Court, and which satisfies 21 U.S.C. § 853(n)(6), and;
2. The Petition of Elton Harris is dismissed in part, said portion to be dismissed consisting of ten (10) one ounce copper Peace Dollars, one (1) ½ ounce silver Peace

Dollar, one (1) first day issue ½ ounce silver Peace Dollar, two (2) ¼ ounce silver Liberty Dollars, and one (1) 1/20 ounce gold Liberty Dollar because this portion of the Petitioner's claim is for coins determined to be contraband. Therefore, pursuant to Fed. R. Crim. P. 32.2(c)(1)(A), this portion of the Petition is dismissed for the reason that the Petition fails to state a claim upon which relief may be granted. Petitioner does not have standing.

3. Final disbursement by the United States shall be deferred until a comprehensive final order of forfeiture is entered in this case.

SO ORDERED.

Signed: December 21, 2015

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

